

REQUEST FOR INFORMATION
PURSUANT TO JOINT LEGISLATIVE COMMITTEE
SUNSET REVIEW

**(INFORMATION TO BE INCLUDED IN BOARD REPORTS DUE
OCTOBER 1ST)**

I. OVERVIEW OF BOARDS OPERATIONS AND PROGRAMS

Section A: Description and Responsibilities of the Board

- A1) What occupation group(s) does the board regulate?
- A2) List all titles currently used by California practitioners of this occupation.
- A3) Identify each occupational association or group that represents these practitioners.
- A4) When was the board and licensing act created and for what purpose?
- A5) Have the laws regulating this profession been changed substantially at any point in time? (For example, from registration of the profession to licensing.)
- A6) Have the board's powers or duties been expanded at any time?
- A7) What is the composition of the board? Give some justification for the size of the board and its composition, and whether an increase or decrease in board size is necessary.
- A8) Are there any current vacancies on the board and what has been the average time for appointments to the board if vacancies existed.
- A9) What are the qualifications for board members?
- A10) What are the powers and duties of the board?
 - a) Cite legal authority for each.
 - b) Have there been any major legal decisions to interpret the powers of the board?
 - c) What does the board consider to be its legal mandate(s)?

- A11) Has the board developed and implemented policies and procedures which clearly delineate board member functions, duties and responsibilities? If so, please attach.
- A12) What policies or specific provisions does the board have concerning conflicts of interest?
- a) Does the board have written standards of conduct for board members and employees of the agency?
 - b) Specify grounds for removal of a board member.
- A13) Has the board formulated and adopted an attendance policy for board members?
- a) If so, please attach. If not, why not?
- A14) Do board members receive any specialized training? Is the training different for public members?
- A15) Has the board adopted rules and standards of professional conduct for licensees?
- a) If so, please attach. If not, why not?
 - b) If the board has not adopted rules and standards of professional conduct, who has?
 - c) How are the rules communicated to licensees?
 - d) How are the rules enforced?
- A16) What is the mission and/or vision of the board?
- A17) Has the board been involved in strategic planning, or in adopting any quality management philosophies and practices?
- a) What are the general goals and objectives of the board?
 - b) Has the board developed goals and objectives for its particular programs, and also developed a way to measure and report the achievement of these objectives.
- A18) Has the board conducted any type of basic self-assessment, reengineering study, or evaluation of the board's overall effectiveness? If so, please attach.
- A19) Has the board submitted a plan and schedule of action, pursuant to the Governor's 1995 executive order (W-127-95), to eliminate or

modify those regulations which may impose excessive cost burdens on those businesses which they regulate. If so, please attach.

A20) Does the board make use of committees?

- a) If so, what authority do they have?
- b) Are the committees composed exclusively of board members?
If not, explain in detail who serves on these committees.

A21) How often does the board meet, and generally, what kinds of decisions are made by the board at these meetings? (Please provide the agendas and minutes of your board meetings over the past year only: July 1, 1996 through August 1, 1997. Attachments to the board agendas and minutes are not necessary.)

- a) How is public participation encouraged at these meetings?
- b) For what reasons are closed (or executive) sessions of the board held, and what information is made available to the public after closed session is concluded?
- c) How much time is spent by board members on activities of the board?
- d) How much per diem and reimbursement is provided to board members? Please provide daily rates and total expenditure for each year over the past four years for each board member.

A22) Does the board belong to any national trade association and/or nationwide groups of similar regulators in other states?

- a) If so, name all such organizations, the total cost of each membership (including travel costs to organization meetings and other incidental costs) in each of the past four years, and the benefits of such membership.

A23) What reports have been made by the board to the Department of Consumer Affairs, the Governor, or to the Legislature? (A list of reports will be sufficient.)

A24) What outreach and consumer education is provided by the board to consumers regarding the role of the board and how to file complaints against licensees?

- a) Does the board publish a consumer guide or brochure to educate consumers on making informed decisions when seeking services from the industry/profession regulated? If so, please attach. If not, why not?

Section B: Funding and Organization of the Board and Staff

- B1) What are the board's sources of revenue and expenditures for the last four fiscal years by category and program component--licensing, examination, enforcement, and other? Include current and anticipated reserves, surplus revenues, reimbursements, or transfers. (Sample charts and tables have been provided.) (Past four fiscal years include: 1993/94, 1994/95, 1995/96 and 1996/97.)
- a) Does the board have an automated revenue and expenditure tracking system or does it rely on the Department of Consumer Affairs?
 - b) What are the board's projected sources of revenue and expenditures for the next two fiscal years (1997-98 and 1998-99)?
 - c) Are any requests for budget change proposals or fee increases anticipated and, if so, for what purpose?
 - d) Provide a current fee schedule with statutory limits for each fee.
- B2) Are there any plans for adopting performance-based budgeting, or any other form of baseline performance measures covering the board's operations?
- B3) Has the board, staff, or Department of Consumer Affairs performed any organizational analysis of the various factors that may affect the board's effectiveness or efficiency?
- a) How has the Department of Consumer Affairs' reorganization efforts, featuring "Client Service Teams," affected the board's operation?
- B4) Provide an organization chart of the board (including committees and divisions if appropriate) and staff within each area of responsibility.
- a) Provide a functional organization chart of staff assigned by program component -- licensing, examination, enforcement, and others -- including the number of clerical and professional staff assigned to each.
 - b) Provide a detailed summary of position titles, authorized positions, and actual salary expenditures for past four years. (Prior budget documents may be used.)
 - c) Also include proposed changes for staff and salary expenditures for the next two years (1997-98 and 1998-99).
- B5) Has the board developed and implemented policies and procedures which clearly delineate staff functions?

Section C: Licensing and Application Process

- C1) What are the educational requirements for licensure with the board?
- C2) Besides educational and examination requirements, what other requirements are necessary for licensure (e.g., experience requirements)?
- C3) If qualifying experience is required, must it be gained under the supervision of a current licensee?
 - a) Are licensure applicants who are working under the supervision of a licensee and gaining qualifying experience paid for their hours of work?
 - b) Does the board permit licensees, who are supervising applicants for licensure, to charge those applicants for supervision?
 - c) Must the supervisors of applicants trying to qualify toward licensure be registered with the board as supervisors? If so, what are the qualifications to be registered as a supervisor?
- C4) Has the board considered alternative requirements for licensure?
- C5) Describe the education/examination/experience requirements for an applicant who is already licensed by a similar board in another state.
- C6) Describe the education/examination/experience requirements for an applicant who is already licensed by a similar board in another country.
- C7) Are there requirements that are unique to California licensees versus those required in other states or other countries?
- C8) Is there a national/uniform model or act for licensure that is being considered or has been adopted by the board?
 - a) Has the board considered adopting or using standardized, uniform language to describe the licensing and regulatory functions on the board?
- C9) What information is required on the application for licensure?
(A copy of the application should be included.)
 - a) What supporting documentation is required?

- C10) What information does an applicant for licensure receive from the board? (Copies of this information should be included.)
- C11) Explain the application review process conducted by the board and staff. (Include a flow chart if one is available.)
- C12) Is the board's application process automated?
- C13) What process is used to verify the information provided by the applicant on the application form?
- C14) Are applicants required to report their own misconduct to the board (e.g., professional negligence/malpractice judgments and settlements, criminal charges and convictions, discipline in other states, etc.)?
- a) What process is used to check prior criminal history information or other unlawful acts of applicant?
 - b) What process is used to determine whether prior acts have been committed that would be grounds for suspension or revocation of license, and grounds for denial of a license?
 - c) [Health Related Boards Only] Does the board check with the National Practitioner Data Bank prior to granting a license to practice in this state? Is the information current and relevant regarding malpractice judgments or settlements, and disciplinary actions taken in other states?
- C15) What action may the board take if the licensee has made false statements on the application?
- C16) What process is used to check out-of-state applicants?
- a) Is out-of-state licensee permitted to practice prior to his or her application for license being approved?
 - b) Are changes needed in the licensing process to provide for better interstate reciprocity of information?
 - c) Does the board recognize international reciprocity? If not, why not? Are there special requirements for international reciprocity?

- C17) Has the board developed criteria to evaluate the rehabilitation of a person applying for a license after denial or revocation of a license?
- C18) Are there other grounds for denial of a license other than those listed in Section 475 and Section 480 of the Business and Professions Code?
- C19) How often is license renewal required?
- C20) What information must the applicant submit for renewal of his/her license? (A copy of this information should be included.)
- C21) What does the board and staff review to determine applicant's qualifications for renewal of licensure?
- C22) What are the deadlines for renewal of the license?
- C23) What is the process for reinstatement if a license has expired and what is the time frame?
- a) Is there an “active” versus “inactive” status for licensees.
- C24) What sort of access does the public have to application/licensing information?
- a) Can the public obtain education and training information, employment and credentialing history?
- C25) What is the average time between submission of an application and an applicant's exam, for each year over the past four years?
- C26) What is the average time period from the completion of the exam until applicant receives the results and is issued a license, for each year over the past four years?
- C27) Provide the number of licensees (active and inactive), numbers and types of licenses issued and number of renewals for each year over the past four years.
- C28) Provide the number of licensees who may have been grandfathered into the profession and who are currently in practice. (“Grandfathered” licensees include those who did not have to meet the current licensure requirements when the licensure law was first enacted.)
- C29) Provide the number of applicants for licensure, number licensed and number denied for each year over the past four years. Give a brief description of the reason why a license was denied. Also provide the number of “potential” licensees if possible -- those who have met the educational requirements (graduated from an approved school, etc.) but still have to meet other requirements before they may apply for licensure.

C30) [For Health Related Boards Only] Is the board involved in any health work force data collection efforts to determine where shortages, or a surplus of providers may exist throughout the state?

- a) What type of data is collected and when? If current data is available from the board or other sources, please attach.

C31) Does the board accredit any educational institutions or programs?

- a) What standards and processes are used for accreditation?
- b) Does the board review private accreditation standards and processes to assure that they are not unreasonably restrictive or anti-competitive?

Section D: Continuing Education and Review of Professional Competence

D1) Does the board have a continuing education requirement for renewal of the license?

- a) If so, describe the continuing education requirement in detail.
- b) Explain why continuing education is necessary.
- c) Are there definitions or written policies about what continuing education is acceptable or not acceptable for licensees?
- d) What are the number of continuing education hours required to be taken by licensee? What is the average cost per hour?
- e) Are some courses/programs mandated? For what purpose?
- f) What is a licensee required to submit to board to show completion of continuing education requirement? How is verification made?
- g) Who are the primary providers of continuing education courses?
- h) Provide the number of current providers of continuing education, the number of approved courses/programs they provide, number of sponsors/courses/programs rejected and reasons why.
- i) Does the board require continuing education providers to administer a test at the end of the continuing education course?

- j) Explain the process for approval of continuing education courses or programs and time frame for approval.
 - k) What evidence does the board have that completion of continuing education requirements improves competency?
 - l) How many staff positions does the board devote to its continuing education program?
- D2) Are there other alternatives the board is considering to continuing education to ensure that professional competence is maintained, such as “retesting” or “recertification”?
- D3) Should the administration of all continuing education requirements be centralized within the Department of Consumer Affairs? If not, why not?
- D4) If there is no continuing education requirement, should one be mandated and why?
- D5) Is there any review conducted by the board, or the private sector, to assure competency of the licensed individuals? (Such as peer assessments, quality reviews, or inspections of licensees' work product or performance record.)
- a) If so, explain this process, how licensees are chosen for review, how often a review is conducted, and how many licensees have been reviewed each year over the past four years.
 - b) Is remedial continuing education mandated for a licensee found to be negligent or lacking in professional competence.
 - c) Can the board compel licensees to take some other form of education or remedial action to assure competency?
 - d) Must disciplinary action be taken against the licensee before remedial education can be required?

Section E: Examination Process

- E1) Are there any written standards or guidelines concerning the examination process? (Please attach.) In not, why not?
- E2) How many different examinations does the board administer? Name them. For each such exam, answer the following questions:

- a) How is the licensing exam validated and how often? When was the exam last validated?
 - b) How often is the exam administered?
 - c) Where is the exam given; at what sites?
 - d) Who prepares or writes the examination? Is it a related trade organization, independent organization or contractor?
 - e) What skills or knowledge does the exam test and how are they related to the practice of the profession?
 - f) What is done to ensure exam security by properly identifying candidates and preventing cheating?
 - g) How many parts are there to the exam? Describe each part (e.g., written, oral, clinical, practical).
 - h) If candidates fail parts of the exam, must they retake the entire exam or only those parts they failed?
 - i) How frequently may the exam be taken?
 - j) Who grades the exam?
 - k) Who determines the standard for passing the exam?
 - l) Who notifies candidates of the results?
 - m) Is the examination any different for licensed out-of-state candidates or those from other countries?
 - n) If the board requires an applicant to pass the state exam in addition to a similar national exam, justify the state exam by describing precisely what knowledge, skills, and abilities the state exam covers that the national exam does not.
 - o) Is the examination any different for licensed out-of-state and foreign candidates?
 - p) What would be the result if the exam were eliminated as a prerequisite for licensure? Could matriculation from an approved educational institution suffice, and if not, why not?
 - r) Should the exam function be centralized under the Department of Consumer Affairs or is the board already using the department's Office of Examination Resources?
- E3) Provide the passage rate, for each of the past four years, for first-time candidates and repeat candidates for each exam. How does this compare with the rest of the nation for

each exam administered by the board? Include the number of examinees in each category. (Tables can be used.)

Section F: Complaint Process

- F1) Who may file a complaint against a licensee?
- F2) Is there a single point of access, such as an 800 number, for consumers to file complaints?
- F3) In what form must a complaint be submitted?
- F4) Is complaint intake automated?
- F5) How is the consumer kept apprised of the progress of a complaint once filed against licensee?
 - a) When and how often is the complainant informed about the progress of the complaint?
 - b) Are they notified when they may be contacted for purposes of investigation?
 - c) Are they notified about the process and their involvement in the proceedings?
- F6) What sort of enforcement tracking is used by the board?
- F7) What are the time frames for handling a complaint -- from the time of receipt, to assignment, to acknowledgment a complaint has received, to investigation and resolution?
 - a) What formal or informal processes (such as telephone calls) are used to handle complaints?
 - b) What action may the board take without filing a formal complaint?
- F8) What information must a complainant provide? (A form may be included.)
- F9) How does the staff check for the accuracy of the information provided?
- F10) What information does a complainant usually request?
- F11) For what reasons would a complaint be dismissed?
- F12) Provide, by type, the total number of inquiries (initial contact with the board) and complaints actually filed each year for the past four years. (Include those that are pending.)
- F13) Provide, by type, the total number of complaints dismissed each year for the past four years.

- F14) Provide, by type, the total number of inquiries received by the board each year for the past four years.
- F15) Provide, by type, the total number of complaints handled informally each year for the past four years. Include a definition of "informally," such as, "without an investigation."
- F16) Provide, by type, the total number of complaints handled formally each year for the past four years. Include a definition of "formally."
- F17) Describe the ways in which the board monitors the number and subject matter of complaints received, for purposes of adoption of regulations to cure prevalent abuses within the trade/profession.

Section G: Enforcement Process

Unlicensed Activity

- G1) Is the practice of the profession/trade clearly defined to determine licensed versus unlicensed activity? (Cite statutes and/or include regulations.)
- G2) What actions may the board take against unlicensed activity?
- G3) Has the board implemented "cite and fine" authority under Sections 145 through 149 of the Business and Professions Code? If not, why not?
- G4) How long has the board had the power to issue fines and citations?
 - a) What are the fine schedules?
 - b) Are the fines capped (so that multiple violations cannot exceed a dollar threshold)?
- G5) What efforts has the board made to investigate unlicensed activity?
 - a) Provide the number of cease and desist orders, letters, or warnings issued or sent by the board for unlicensed activity for each of the last four years. Also include the types of unlicensed activity involved.
 - b) Provide the number of infractions, penalties and administrative citations for unlicensed activity issued by the board for each of the last four years. Also include the types of unlicensed activity involved.

- c) Provide the total number of cases for unlicensed activity referred to the courts for action for each of the last four years.

Investigations

- G6) Explain briefly the investigative processes of the board, from the handling of an initial complaint to the filing of an accusation. Indicate who is involved in each stage of the process and the approximate time frame for completing each stage for each type of investigation.
- G7) Does the board perform inspections and/or audits of licensees or their place of business?
 - a) If so, briefly explain the process, who is involved and the time frame for completion.
 - b) What prompts an inspection and/or audit?
- G8) Are cases divided into distinct areas for handling? (For example, administrative violations, criminal violations, competency issues, minor or major cases, unlicensed activity.)
 - a) Are cases prioritized? Explain the board's priority system.
- G9) Does the board try to target high-profile cases for publicity in order to educate practitioners and consumers about specific problem practices?
- G10) Does the board employ sworn investigative staff?
 - a) If not, does the board refer all cases to the department's Division of Investigation or does the board permit non-sworn employees to investigate cases?
 - b) Does the board believe that it would be better for its staff to conduct all investigative activities or to use (or continue using) an outside agency such as the Division of Investigation? Explain briefly.
 - c) If the board refers cases to the Department's Division of Investigation, does the board ever place an hours-per-case limit on the investigation? Under what circumstances? What is the limit and how is it set?
- G11) Provide the total number of investigations (by type) commenced and completed for each year over the past four years, and the number of investigations currently open/pending.
 - a) Provide approximate cost of investigation by type of case.
- G12) Provide, by type, the number of inspections and/or audits completed each year over the past four years.

- a) What are the number of inspections and/or audits planned for 1997-98?
- G13) Provide the number of cases in which the investigation was completed within 90 days of complaint receipt for each year over the past four years.
 - a) Provide the same information for periods within 180 days, one year, two years, three years, over three years. Give reasons for extreme delays.
- G14) How often does the state attorney general request an additional investigation before filing an accusation or statement of issues? What is the approximate time frame if further investigation is required?

Disciplinary Action

- G15) Explain briefly the disciplinary process of the board, from completion of an investigation, to filing of the accusation/statement of issues, to subsequent action by the board.
 - a) Indicate who is involved in each stage of the process and the approximate time frame for completing each stage.
- G16) Is there any alternative process used by the board or is one being considered? This could include, for instance, dispute resolution, mediation or arbitration. Explain briefly.
 - a) What type of cases would be referred to this alternative process?
 - b) Does the board track the effectiveness of this alternative process?
- G17) Has the board implemented "cite and fine" authority under Section 125.9 of the Business and Professions Code? If not, why not?
- G18) Provide the total number of citations issued for order of abatement and order to pay an administrative fine for each year over the past four years.
 - a) Show the amounts assessed by the board and the amounts collected.
 - b) What further action was taken if an amount went uncollected?
- G19) What are the general grounds for suspension or revocation of a license? Cite code section(s).
- G20) What are the grounds for finding incompetence, negligence, or gross negligence and what action is taken by the board?

- a) Is incompetence, negligence, or gross negligence defined in statute or in regulations?
- G21) Does the board have a procedure for automatically suspending licenses? Under what circumstances would it be used?
- G22) What conditions may be placed on a licensee if granted probation in court action?
 - a) How does the board monitor licensees who are granted probation?
 - b) What action may be taken by the board for violation of probation conditions?
- G23) Under what circumstances does the board conduct administrative hearings in conjunction with administrative law judges (ALJs)? Are there circumstances when it conducts hearings without ALJs?
- G24) Has the board adopted criteria or standards for circumstances under which it should or should not reject an administrative law judge's proposed decision?
 - a) Have standards been developed to link disciplinary actions to the severity of the complaint or violation?
- G25) Has the board adopted disciplinary guidelines that set forth the board's penalty standards? (Include a copy.)
 - a) How frequently are they updated?
 - b) When and how have the disciplinary guidelines been communicated to the Attorney General's Office and the Office of Administrative Hearings?
- G26) What entities are required to report information to the board that may indicate a need for disciplinary action? Has the board experienced any problems getting information from these entities?
 - a) [Health Related Boards Only] Are there any reporting requirements for health plans or health care facilities? Explain what type of information is reported to the board (such as peer review or disciplinary action taken against a practitioner).
 - b) Are licensees required to report to the board unprofessional conduct or other violations by other licensees in the trade/profession?
- G27) Is the board permitted to issue interim orders suspending or imposing restrictions on licenses? Under what circumstances would the board seek this relief?
- G28) Does the board have authority to file with the court for injunctive relief, for temporary restraining orders, for cease and desist orders, or other types of order to enjoin the acts or practices of persons who are in violation of any of the provisions of the licensing act,

including unlicensed activity? Under what circumstances would the board seek this relief?

- G29) Is disciplinary information disclosed to the public?
- a) If so, at what point in the process is it made available? (For example, once a complaint is filed, after an accusation is filed or after case is decided.)
 - b) What information would be disclosed? (For example, prior disciplinary action, malpractice judgments or settlements, peer review findings, misdemeanor/felony convictions, loss of professional privileges, etc.)
- G30) Provide information on how often an accusation or statement of issues is not filed while awaiting court action.
- G31) Does the board have authority to proceed with disciplinary action while awaiting court action? Under what circumstances would this be done?
- G32) Are there additional penalties or sanctions which the board would consider imposing?
- G33) Is any form of restitution provided to wronged consumers or to the public?
- a) If so, under what circumstances?
 - b) Has the board adopted rules or guidelines specifying these circumstances? If so, please attach.
- G34) If the board has no restitution policy, is there some form of restitution the board would consider appropriate?
- G35) Provide, by violation type, the total number of accusations filed, number withdrawn or dismissed, and final decisions reached for each year over the past four years. Also include those cases which were referred for criminal or civil action.
- G36) Provide, for each year over the past four years, the number of cases in which:
- a) the board non-adopted the decision of the ALJ,
 - b) the ALJ's recommended penalty was increased or decreased,
 - b) reconsideration was granted or denied,

- c) judicial review was employed,
 - d) the board's decision was overturned or stayed,
 - e) the penalty was reduced or reinstatement was granted. for each year over the past four years.
- G37) Provide the total number of statements of issues filed by violation type, number withdrawn or dismissed, and number of licenses denied or granted for each year over the past four years.
- G38) Provide the total number of interim orders (if applicable) sought and issued by type for each year over the past four years.
- G39) Provide the total number of temporary restraining orders, cease and desist orders, or other type of orders sought and issued by type for each year over the past four years.
- G40) For each licensee in which an accusation or statement of issues was filed and a decision reached, provide the disciplinary action taken, brief reason for the decision, and board's subsequent action for each year over the past four years.

Disciplinary Case Aging Data

- G41) Provide the total number of pre-accusation/statements of issues assigned to the attorney general. Divide cases into the following categories: 0-91 days, 92-182 days, 183-274 days, 275-365 days, 1-2 years, 2-3 years, over 3 years.
- G42) Provide the same information for post-accusation/statements of issues in the above categories
- G43) Provide a summary of caseload for each year for the past four years in the following categories: Cases Received, Cases Completed, Open/Pending Cases. Carry over from each year. (For 1997, cases would be open/pending up to August 1, 1997).
- G44) Provide a summary of aging cases for each year for the past four years in the following categories: Cases Closed within One Year, Cases Closed within Two Years; Cases Closed within Three Years, Cases Closed within Four Years, Cases over Four years old. Provide a brief explanation of cases over two years old.
- G45) What is the average period of time for a case to be handled, from the time a complaint is filed to final disposition of the case?
- G46) What can be done to speed up the disciplinary process?
- a) What efforts has the board made to speed up the process?

Enforcement Costs

- G47) How does the board track cases for purposes of controlling enforcement costs?
- G48) Provide the total cost of investigation, prosecution (with the use of the attorney general's Office or outside counsel), use of expert witnesses, administrative hearings (with use of the Office of Administrative Hearings and court reporters), and other costs for each year over the past four years.
- a) Provide the percentage of enforcement costs as a share of the board's total budget for each of those years.
- G49) Briefly explain why expert witnesses are used and how they are chosen.
- G50) Has the board adopted formal criteria for the designation and evaluation of experts in its enforcement proceedings?
- G51) Provide the hourly rate the board has paid to the Attorney General's Office for each year over the past four years.
- G52) Provide the number of cases, by type, referred to the Attorney General's Office for each year over the past four years, the total cost of those cases and the average cost per case.
- G53) Does the board have cost recovery authority?
- a) Has the board implemented this authority? When?
 - b) How much has the board requested in cost recovery during the past four years on a yearly basis?
 - c) How much has the board received in cost recovery during the past four years on a yearly basis?
 - d) What percentage of enforcement costs is recouped through the cost recovery process?

Other Litigation Costs

- G54) List and provide a brief description of:
- a) the issues raised in all civil lawsuits (excluding judicial appeals of agency disciplinary decisions) to which the board has been a party during the past four years,
 - b) the outcome of those cases, and
 - c) the cost of each case to the board.

Diversion Program

G55) Does the board operate a diversion program for alcohol and substance-abusing licensees? Under what statutory authority? Describe the program and its requirements in detail.

- a) Is the board's diversion program administered by the board itself (in-house) or is it contracted out to another organization? If the latter, identify that organization and the academic credentials/degrees and occupational licenses possessed by the organization's employees who work with diversion program participants.
- b) What is the goal of the program?
- c) Identify the costs of the program over the past four years on a yearly basis; distinguish between costs which are paid by the individual participant, and costs which are borne by the board and its licensees.
- d) How are licensees referred to the diversion program?
- e) Once a licensee is referred to and accepted into the program, is his/her license suspended until it is determined that he/she can practice safely?
- f) How many licensees have participated in the diversion program in each of the past four years?
- g) How many licensees have successfully "graduated" from the program in each of the past four years? What are the criteria for graduation?
- h) How does the board communicate the existence of the diversion program to its licensees?
- i) Is the board's enforcement program aware of the identity of diversion program participants, so that it may take appropriate action if subsequent complaints are received about a licensee in the diversion program?
- j) How many licensees out of those "graduated" from the diversion program have had a similar, subsequent disciplinary violation over the past four years?

II. ASSESSMENT OF NEED TO REGULATE

Section A: Potential for Harm to the Public's Health, Safety and Welfare if Occupation is Unregulated.

- A1) Are practitioners engaged in activities or practices which could cause public harm? Document any physical, social, financial or other consequences to the consumer which could result if this occupation was unregulated?
- a) How severe would these consequences be?
 - b) Is there one area of the practice that has greater potential for public harm than another?
 - c) How likely is it that any harm would occur?
- A2) If there are different licensing categories, classifications or occupational titles which are regulated, provide justification for each.
- a) Explain why practice versus title protection is necessary, or if title protection is sufficient.

Section B: Evidence from Current Regulatory Program that Regulation is Necessary.

- B1) What components of the current regulatory program provide sufficient evidence that the current level of regulation is necessary?
- B2) Document cases or instances of where the public's health, safety, or welfare has been endangered or where consumer injury has occurred.

Section C: Public Demand for Regulation of this Occupation.

- C1) What groups, organizations or other entities originally requested regulation? Are there any which were opposed?
- C2) Is there any evidence that the public demands the current level of regulation of this occupation?

Section D: Federal Mandates or Other Legal Considerations.

- D1) Are there federal mandates or other legal considerations that require the state to continue regulating this occupation?

Section E: Degree of Skill or Knowledge Required and Level of Independence within the Practice.

- E1) To what extent do individual practitioners make professional judgments with potentially major financial, health, safety or other significant consequences for the consumer?
 - a) What are these judgments?
 - b) How frequently do they occur?
 - c) What are the consequences? Document.
- E2) To what extent do practitioners work independently, as opposed to working under the auspices of an organization, an employer, a supervisor, or under the supervision of another practitioner?
 - a) If supervised, is the supervisor covered by regulatory statute?
- E3) To what extent do decisions made by the practitioner require a high degree of skill or knowledge to avoid harm?

Section F: Ability to Define Competence and Standards of Practice.

- F1) What is the generally accepted core amount of knowledge, skill and ability which the practitioner must have to practice in this occupation?
 - a) What methods are currently used to define the requisite knowledge, skill and ability of the occupation?
 - b) Who is responsible for defining this knowledge, skill and ability?
 - c) Is all the requisite knowledge, skill and ability tested?
- F2) Is there a consensus on what activities constitute competent practice of the occupation?
 - a) If so, state and document. If not, what is the basis for assessing competence?
 - b) Are the indicators of competent practice measurable by objective, written standards?
 - c) Are all standards job related?

- d) How do these standards compare with those required by other states?
If differences exist, please explain.
 - e) *[New Question] How are determinations made concerning the use of new procedures or practices by the profession, and whether or not they are within the current scope of practice?*
- F3) [For Health Related Boards Only] Does the board review standardized practice guidelines or protocols used in health care facilities?

Section G: Other Ways in which Knowledge, Skills, and Abilities are Obtained.

- G1) Are there other ways which knowledge, skills and abilities necessary for this occupation are obtained -- apprenticeships, internships, on-the-job training, individual study, etc.?
- a) Describe the program or study involved, number of years required, and whether it is a prerequisite to licensure.

Section H: Difficulty in Evaluating Qualifications of the Practitioner.

- H1) Do consumers use services provided by this practitioner on a repeat basis or only infrequently?
- H2) Who is the primary consumer of these services (the general public, other practitioners, other businesses, state and local agencies, etc.), and what percentage of each uses these services?
- a) Is the consumer more sophisticated than the average public in requesting these services?
- H3) Can the competence or performance of the practitioner be readily evaluated by the consumer?
- a) If not, why not?

Section I: Degree of Regulatory Overlap with Other Public Agencies.

- I1) Are there other public agencies, federal, state or local, which regulate some portion of services provided by the occupation?
- I2) What percentage of licensees may be licensed by another agency (or board)?

Section J: Other Similar Occupations which are Regulated or Unregulated.

- J1) What similar occupations are regulated in California?

- a) Describe functions performed by practitioners that are similar to those performed in similar, regulated occupations.
 - b) Describe functions performed by practitioners that are different than those performed in similar, regulated occupations.
- J2) Are there unregulated occupations that perform services similar to the current regulated occupation?
 - a) Describe functions performed in similar, unregulated occupations that are similar to those performed by practitioners.
 - b) Describe functions performed in similar, unregulated occupations that are different than those performed by practitioners.
 - c) Please supply names, addresses and phone numbers of organizations that represent these unregulated industries.

Section K: Other States which Regulate this Occupation.

- K1) What states currently regulate this occupation and which ones do not?
 - a) For those that regulate, is it through licensing, certification, or registration of the occupation?
- K2) Are there some states which have deregulated this occupation?
- K3) Is there any evidence of consumer harm in those states which do not regulate this occupation?

Section L: Economic and Social Impact of Regulation.

- L1) How many people are exposed annually to this occupation?
- L2) What is the consumer cost of the service provided?
 - a) Would costs of goods and/or services be less if the regulatory program was eliminated. If not, why not?
 - b) Estimate the amount of money spent annually in California for the services of this group.

- L3) Provide evidence of the "net" benefit of current regulation when the following possible effects of regulation are considered:
- a) Restricting the number of persons who may practice.
 - b) Restricting the supply of practitioners.
 - c) Increasing costs of services to the consumer.
 - d) Increased governmental intervention in the marketplace.
- L4) [For Health Related Boards Only] Are there services which the occupation could provide which would decrease overall costs to the consumer if the practice of the profession was expanded?
- a) If the "scope of practice" of the profession was expanded, are practitioners qualified by training and experience to provide these services?
 - b) Have there been attempts in the past to expand the professions "scope of practice" and what has been the outcome?
 - c) What other benefits would there be to the consumer if the scope of the professions practice was expanded?
 - d) What groups have opposed expanding the professions "scope of practice" and for what reasons?

III. EFFORTS TO IMPROVE THE CURRENT REGULATORY PROCESS

Section A: Operational Efficiencies

- A1) Is the board's regulatory mission impeded or enhanced by existing statutes, regulations, policies, practices, or any other circumstances, including budgetary, resource, and personnel matters?
- A2) Explain any efforts which have been made by the board to improve any aspect of the current regulatory program.
- A3) Are there administrative or regulatory changes that the board is considering to improve its operations and increase the program's ability to operate more in the public interest?

- a) What specific recommendations would the board make to improve its overall efficiency and effectiveness?

Section B: Legislative Efforts

- B1) Provide a short listing of legislative efforts made by the board to improve any aspect of the current regulatory program.
- B2) Would statutory changes be needed to improve any aspect of the current regulatory program?
- B3) Has the board recently adopted, or is it proposing, any new licensing or occupational category for licensure?
 - a) If so, for what reasons?